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ELASTICSEARCH, INC. and
ELASTICSEARCH B.V.
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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 ELASTICSEARCH, INC., a Delaware
12 corporation, ELASTICSEARCH B.V., a Dutch
corporation,

13 Plaintiffs,

14 v.

15 FLORAGUNN GmbH, a German corporation,

16 Defendant.
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Case No. 4:19-cv-05553-YGR

STIPULATED ~~PROPOSED~~ ORDER
RE: DISCOVERY OF
ELECTRONICALLY STORED
INFORMATION

1 **1. PURPOSE**

2 This Order will govern discovery of electronically stored information (“ESI”) in this
3 case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the
4 Discovery of Electronically Stored Information, and any other applicable orders and rules.

5 **2. COOPERATION**

6 The parties are aware of the importance the Court places on cooperation and commit to
7 cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the
8 Discovery of ESI.

9 **3. LIAISON**

10 The parties have identified liaisons to each other who are and will be knowledgeable
11 about and responsible for discussing their respective ESI. Each e-discovery liaison will be, or
12 have access to those who are, knowledgeable about the technical aspects of e-discovery,
13 including the location, nature, accessibility, format, collection, search methodologies, and
14 production of ESI in this matter. The parties will rely on the liaisons, as needed, to confer about
15 ESI and to help resolve disputes without court intervention.

16 **4. PRESERVATION**

17 The parties have discussed their preservation obligations and needs and agree that
18 preservation of potentially relevant ESI will be reasonable and proportionate.

19 **5. SEARCH**

20 The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if
21 appropriate, they will meet and confer about methods to search ESI in order to identify ESI that
22 is subject to production in discovery and filter out ESI that is not subject to discovery.

23 **6. PRODUCTION FORMATS**

24 The parties agree to produce documents in ☒ PDF, ☒ TIFF, ☒ native and/or ☐ paper or
25 a combination thereof (check all that apply) file formats. If particular documents warrant a
26 different format, the parties will cooperate to arrange for the mutually acceptable production of
27 such documents. The parties agree not to degrade the searchability of documents as part of the
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1 document production process.

2 The parties agree to produce documents along with searchable text and the metadata
3 specified herein. For email, the parties agree to produce the following metadata to the extent
4 such metadata can be provided using industry standard eDiscovery technologies and processes:
5 To; From; CC; BCC; SentDate; SentTime; and Subject. For standalone electronic files or
6 attachments to emails, the parties agree to produce the following metadata to the extent such
7 metadata can be provided using industry standard eDiscovery technologies and processes:
8 Author; Custodian; Creation Date; ModifiedDate; and File Name. Notwithstanding the
9 foregoing, the parties agree to produce any spreadsheet files or audio/visual files in native file
10 format, along with the searchable text and metadata specified in this paragraph; the parties also
11 agree to produce in native file format any files that are not reasonably usable when produced in
12 TIFF or PDF (e.g., because they lose substantive information when converted to TIFF or PDF
13 or suffer from adverse formatting changes when converted to TIFF or PDF).

14 The parties agree that any source code that is ordinarily maintained in a source code
15 repository shall be produced as part of that repository in its entirety (including all metadata,
16 history, documentation, tests, and non-code content), all in the same order or manner of
17 arrangement as the original.

18 The parties agree to brand all documents with an appropriate bates label identifying the
19 source from which the documents are being produced. For native files, the bates label shall be
20 affixed to a placeholder TIFF or PDF image corresponding to the native file and/or to the file
21 name of the file being produced in native.

22 **7. DOCUMENTS PROTECTED FROM DISCOVERY**

- 23 a) Pursuant to Fed. R. Evid. 502(b), the production of a privileged or work-product-
24 protected document, whether inadvertent or otherwise, is not a waiver of privilege
25 or protection from discovery in this case or in any other federal or state
26 proceeding. For example, the mere production of privileged or work-product-
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protected documents in this case as part of a mass production is not itself a waiver in this case or in any other federal or state proceeding.

b) The parties may assert privilege following the procedures outlined in Fed. R. Civ. P. 26(b)(5).

c) Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log. Communications may be identified on a privilege log by category, rather than individually, if appropriate. The parties agree to produce privilege logs for any documents withheld from production within 21 days after the production date.

8. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: January 9, 2020 /s/ David R. Eberhart

Attorneys for Plaintiffs

DATED: January 9, 2020 /s/ Michael S. Kwun

Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 14, 2020



Hon. Yvonne Gonzalez Rogers

United States District Judge

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ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the filing of this document has been obtained from the other party signatories.

Dated: January 9, 2020

/s/ David R. Eberhart
David R. Eberhart